III. REMARKS

Claims 1-40 are pending in this application. By this amendment, claims 1, 18 and 35 have been amended. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

Entry of this Amendment is proper under 37 C.F.R. 1.116(b) because the Amendment: (a) places the application in condition for allowance as discussed below; (b) does not raise any new issues requiring further search and/or consideration; and (c) places the application in better form for appeal. Accordingly, Applicants respectfully request entry of this Amendment.

In the Office Action, claims 1-7, 10-24 and 27-40 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Agrawal *et al.* (U.S. Patent No. 6,606,661), hereafter "Agrawal" in view of Bondarenko *et al.* (U.S. Patent No. 6,389,028), hereafter "Bondarenko." Claims 8-9 and 25-26 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Agrawal in view of Bondarenko and further in view of Slotznick (U.S. Patent No. 6,011,537), hereafter "Slotznick."

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success.

Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Applicants respectfully submit that the Agrawal, Bondarenko and Slotznick references, taken alone or in combination, fail to meet each of the three basic criteria required to establish a *prima facie* case of obviousness. As such, the rejection under 35 U.S.C. §103(a) is defective.

With regard to the 35 U.S.C. §103(a) rejection over Agrawal in view of Bondarenko, Applicants assert that the cited references do not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 18, and 35, Applicants submit that, contrary to the argument of the Office, Agrawal fails to teach or suggest responsive to determining that said access level is at a desired maximum, allocating to an access slot, which specifies a time period during which the scarce resource may be accessed, said requester. The Office argues that "...a position in the queue is an access slot. The period of time when a user gets to the head of the queue is the period of time when the scarce resource may be accessed." Office Action, page 3. However, this argument overlooks the claimed term "specifies a time period." A client in the queue of Agrawal does not know exactly when access will become available, but instead is placed in the queue to wait on resources. Col. 3, lines 5-10. While it may be possible for a client in the Agrawal queue to derive some indication from throughput parameters as to when a request may reach the head of the queue, this is an estimation only. It is not possible to inform the client of Agrawal that access will be available during a specific time period at the time the determination is made that the access level is at a desired maximum. In contrast, the present invention includes "...responsive to determining that said access level is at a desired maximum, allocating to an access slot, which specifies a time period during which the

scarce resource may be accessed, said requester." Claim 1. As such, the requester as included in the claimed invention does not simply remain enqueued for some unspecified length of time until resources become available as in Agrawal, but is instead allocated to an access slot, which *specifies* a time period during which the scarce resource may be accessed. Furthermore, the time period of the claimed invention is specified responsive to determining that said access level is at a desired maximum, and not once the request reaches the head of a queue as in Agrawal. Thus, the access slot as included in the present invention is not equivalent to the queue of Agrawal. Bondarenko does not cure this deficiency. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With further respect to independent claims 1, 18, and 35, Applicants submit that the cited references fail to teach or suggest that access is available to said requester at any point in the time period during which said allocated slot is enabled. Instead, the request of Agrawal is processed (barring server failure) once the head of the queue is reached. The client has no choice in the matter. In contrast, the claimed invention includes "...access being available to said requester at any point in the time period during which said allocated slot is enabled." Claim 1. As such, the access of the claimed invention is not simply processed at the point in time that the head of the queue is reached as is the request of Agrawal, but instead is available to said requester at any point in the time period during which said allocated slot is enabled. This allows the client to perform other tasks, safe in the knowledge that a slot will be available between time x and time y. For example, the client could choose to access a 10:00 – 11:00a.m. slot at 10:30a.m. For the above stated reasons, Agrawal does not teach or suggest this feature. Bondarenko does not cure this deficiency. Accordingly, Applicants respectfully request withdrawal of the rejection.

With respect to independent claims 36 and 39 and dependent claims 11, 15, 17, 28, 32 and 34, Applicants respectfully submit that, contrary to the argument of the Office, Bondarenko fails to teach or suggest determining with the access level of the scarce resource at the desired maximum whether said scarce resource is able to accommodate access by said late requester. The Office admits that Bondarenko does not explicitly teach that a user has missed or gone beyond a time period. The Office, however, asserts that "...scenarios, as claimed, where a user has missed or gone beyond a time slot are taught by Bondarenko because such scenarios use the process as those for a new user." Applicants respectfully disagree, and submit that claims 11, 15, 17, 28, 32, 34, 36 and 39 involving a user that has missed or gone beyond a time period, hereafter "late request," do provide different determinations than claims for a request as in claim 1, hereafter "normal request." For example, upon receipt of a normal request, the claimed invention, "...responsive to determining that said access level is at a desired maximum, allocat[es] to an access slot, which specifies a time period during which the scarce resource may be accessed, said requester." Claim 1. As such, the requestor of a regular request of the claimed invention is not granted immediate access if the access level is at a desired maximum, but instead is allocated to an access slot. In contrast, if the request of the claimed invention is a late request from a user that has missed or gone beyond a time period, it is determined "...with the access level of the scarce resource at the desired maximum whether the scarce resource can accommodate access by the user to the scarce resource." Claim 36. Thus, the late requestor of the claimed invention may be granted immediate access *even when the access level of the scarce resource is at the desired maximum*. Thus, in contrast to Bondarenko in which all scenarios use the same process, the claimed invention uses a different determination for late requests than the

determination that it uses for regular requests. Thus, the determining step for a late request as included in the claimed invention is not equivalent to the functions of the queue in Bondarenko. Agrawal does not cure this deficiency. Accordingly, Applicants request withdrawal of this rejection.

With respect to claims 3 and 20, Applicants respectfully submit that the cited references fail to teach or suggest that said access slot information comprises a start time for said access slot and an expiry time for said access slot. The passage of Agrawal cited by the Office teaches a lifetime of a socket that "...is defined to be the amount of time between when the socket is bound to a client and the time when the socket becomes free again;" a service delay that "...is defined to be the period from the request arrival time at the socket queue to the time when the first byte of the reply is sent by the server;" and a queuing delay that "...is said to be the time a request spends in the server queue waiting on resources." However, none of the defined terms in the cited passage teaches an access slot, which specifies a time period during which the scarce resource may be accessed, wherein said access slot information comprises a start time for said access slot and an expiry time for said access slot. In contrast, the claimed invention includes "...said access slot information comprises a start time for said access slot and an expiry time for said access slot. Claim 3. As such, the start time and expiry time of the claimed invention do not define theoretical values such as the lifetime of a socket, service delay, and queuing delay of Agrawal, but instead specify a start time during which the scarce resource may be accessed and an expiry time for the access slot to the scarce resource. Thus, the definitions of the passage in Agrawal cited by the Office to not teach or suggest the start time and expiry time of the claimed

invention. Bondarenko does not cure this deficiency. Accordingly, Applicants respectfully request that the Office withdraw the rejection.

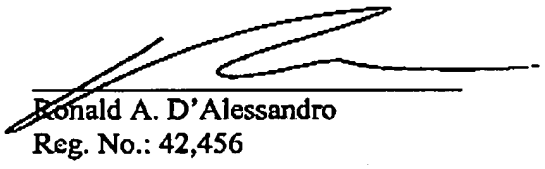
With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

IV. CONCLUSION

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

Date: May 2, 2005



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